

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DISTRICT COUNCIL NO. 9 INTERNATIONAL :
UNION OF PAINTERS AND ALLIED TRADES, :
A.F.L.-C.I.O., : 19-CV-11358 (JMF)
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Petitioner, : MEMORANDUM OPINION
: AND ORDER
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-v- :
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:
PHOENIX INTERIOR CONTRACTING CO., INC. a/k/a :
PHOENIX INTERIOR CONTRACTING, :
:
Respondent. :
:
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JESSE M. FURMAN, United States District Judge:

On December 12, 2019, Petitioner filed a Petition to Confirm Arbitration. ECF No. 1.

On December 16, 2019, the Court set a briefing schedule for Petitioner's submission of any additional materials in support of the Petition, Respondent's opposition, and Petitioner's reply. ECF No. 7. Petitioner served Respondent with the Petition, supporting materials, and the briefing schedule. ECF Nos. 8-9. Pursuant to the briefing schedule, Respondent's opposition was due no later than January 20, 2020. ECF No. 7. To date, Respondent has neither responded to the Petition nor otherwise sought relief from the Award.

The Court must treat the Petition, even though unopposed, "as akin to a motion for summary judgment based on the movant's submissions." *Trs. for Mason Tenders Dist. Council Welfare Fund, Pension Fund, Annuity Fund & Training Program Fund v. Capstone Constr. Corp.*, 11-CV-1715 (JMF), 2013 WL 1703578, at *2 (S.D.N.Y. Apr. 19, 2013) (discussing in depth the legal standards for resolving unopposed petitions to confirm arbitration awards). After

reviewing the Petition and the supporting materials, the Court finds that there is no genuine issue of material fact precluding summary judgment as to all portions of the Award, as the Arbitrator's decision provides more than "a barely colorable justification for the outcome reached." *Id.* at *3 (internal quotation marks omitted). Nor is there any justification under Section 10(a) of the Federal Arbitration Act for vacating the Award.

Petitioner also requests an award of its attorney's fees and costs incurred in bringing the Petition. ECF No. 1-1, at 5. **Within one week of the date of this Order**, Petitioner shall submit an accounting of any fees and costs it seeks and a letter addressing the reasonableness and necessity of the hours spent, rates charged, and litigation costs incurred.

Accordingly, the Court grants Petitioner's unopposed petition to confirm the entire Award. Petitioner is directed to file its Proposed Judgment electronically, using the ECF Filing Event "Proposed Judgment," by no later than **January 24, 2020**.

SO ORDERED.

Dated: January 22, 2020
New York, New York



JESSE M. FURMAN
United States District Judge